

Submitted By:

Amber Jones
Amber L. Jones
Administrator

**TOWN OF PHIPPSBURG
SELECTMEN'S MEETING
MINUTES
October 2, 2019**

Approved by Selectmen:

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Just 10/23/19

The Selectmen convened at 6:00 p.m. at the Town Hall with Administrator Jones, Selectman Nixon, Selectman Young and Selectman House present.

I. New Business

1. Meet with Assessing Agent, Juanita Wilson, to set the Fiscal Year 2020 mil rate for property taxes, and indicate the FY 20 budget overlay.

Assessor Wilson provided 6 sample mil rates within a range, in concert with the county tax, the local education tax, the municipal appropriation, revenue sharing and other revenues. Once that is applied, the minimum tax rate this year would be \$8.99 and the max \$9.43. If the current mil rate was held at \$9.04, the overlay would be a little less than \$32,000. Sample 5 shows the mil rate if we wanted to use a figure close last year's overlay, and results in a mil rate of \$9.20. Sample 3 & 4 were done to get close to an approximate overlay of \$100,000. To go up a dime to \$9.14 the overlay would be \$96,197.43; up 11 cents to \$9.15 the overlay would be approximately \$102,600 - Selectman House does not recommend the \$9.15, because it adds a penny to the first half payment and creates extra work for staff when taxpayers pay an extra penny on the second half. Selectman House asked what the average house value is in Phippsburg. Ms. Wilson replied \$300,000 which would mean a \$30 increase over last year in taxes if the mil rate went to \$9.14.

Vote: Selectman Young motioned to set the mil rate for 2020 at \$9.14 per thousand, which was seconded by Selectman House and passed by a vote of 3-0.

2. Consider granting Certificates of Administrative Abatement, due to the inability to collect: FY20-01, FY20-02, FY20-03 and FY20-04 (2016 - 2019) for Map 039 Lot 015 per Title 36 § 814 (3) in the amount of \$524.70.

Vote: Selectman Young motioned to grant the above Certificates, which was seconded by Selectman House and passed by a vote of 3-0.

3. Appellate Hearing - Daniel Harrington's Appeal of Shellfish Commission decision to allow the sale of a non-renewable non-resident commercial license, after it was sold in error.

Selectman Young disclosed that he was a member of the Shellfish Conservation Commission and resigned on August 7th. The last meeting he attended was in May of 2019 and he was not present for the Daniel Harrington Shellfish Commission Hearing on July 25th. He asked if any of the members of the Shellfish Conservation Commission, the Select Board or Mr. Harrington objected in him participating in this Appeals Board. There were no objections.

Mr. Harrington stated that he purchased a non-resident commercial shellfish license and is asking that he be allowed the same opportunity of every other licensed harvester to renew that license upon completion of the conservation time. He has purchased licenses in multiple towns since 1985 and has been a shellfish harvester his entire life. He explained that having options open in the industry can make or break you. He is the Shellfish Committee Chair for the Town of Woolwich where he lives and he knows what it's like to manage these things. He also knows what it's like to be pushed out of towns or have your license revoked. Mr. Harrington knows the Shellfish Committee, under the advice of Denis

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Marc Nault, decided that what he purchased wasn't a non-resident shellfish harvester's license and it was a left over resident license; that's not what is says at the top of his license and that is not the price that he paid. Mr. Harrington is simply asking the Board for the same opportunity as every harvester.

Selectman Young stated that two items were brought up during the Shellfish Commission hearing. One was whether or not to allow Mr. Harrington to keep the license, which they did vote to allow. It was an administrative error that Mr. Harrington received the license and the Commission voted to allow him to keep it, realizing that one less license would be available for a resident for the remainder of this year. The second item is to determine whether or not the license will be renewed in the next harvest year if Mr. Harrington completes his conservation efforts. Using the term "grandfatherable" is problematic considering it doesn't appear anywhere in the Ordinance. Selectman Young confirmed that what Mr. Harrington is asking for is that the fourth (non-resident) license, (which Mr. Harrington received this year) be guaranteed by the Town to remain available each year for issuance to Mr. Harrington annually as long as he completes the required conservation time.

Dean Doyle, Chair of the Shellfish Conservation Commission explained that the Commission allowed the sale of the extra non-resident license in part because there was one resident license that was not claimed, and they agreed not to sell the resident license to alleviate the situation, keeping the overall allocation the same. Otherwise, they would have had to amend their allocation request.

Selectman Mixon asked if resident license was removed for the one year in order to stay within the allocation requirements of DMR. Dean Doyle answered that the Shellfish Commission is only required to issue 3 non-resident commercial licenses. Dan's request goes against the Ordinance. Terry Watson felt that the license should have been kept for a resident, but there was no interest in it.

Mr. Harrington stated that the bottom line is, he purchased a non-resident commercial shellfish harvester's license for \$550 and Denis-Marc Nault called it a leftover resident license. Selectman Young stated that he purchased a non-resident license for a one year period.

Dean Doyle explained that whether it is renewable or non-renewable is not the issue right now, as the Ordinance states that allocation is done in May. There are considerations for having held the license 3, 4 or 5 years in a row, which give priority to those harvesters. If the Shellfish Commission votes in May to put the number back to 3, which is the minimum allowed in the consideration section that will faze Mr. Harrington out with his one-year license as it would any other harvester who hasn't held a license for several years. The Shellfish Commission believes they should stick with the Ordinance, which means that the question of whether or not Mr. Harrington will be able to purchase a fourth non-resident license, is an issue that can only be dealt with in May when the allocation is done.

Anna Varian asked for a point of clarification: can the Commission sell more non-resident licenses than the 3 that are being referred to? And, where does the allocation number come from in the beginning, how is it determined? Selectman Young explained what happens in May: every year the Shellfish Commission meets and makes a decision on what they recommend to the Selectmen for the license allocation for that year. They comprise a letter explaining why they want to adjust it, the breakdown of

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Oliver 10/23/19
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Smith 10/23/19

all the licenses, including the prices, and then the Select Board approves it. It is then sent to DMR and they review and authorize allocation for that year. What happened with Mr. Harrington, was that he was contacted and came in for the fourth license, which the allocation didn't authorize. However, DMR agreed that since we were still within the total number applied for, the Town was allowed. As long as the Town did not sell the remaining resident license, DMR would approve issuance of the non-resident license. Anna asked the determination at this point is whether the license is renewable or not. Selectman Young stated that if you want to use the term "renewable" than yes.

Selectman Mixon suggested that they exit the hearing and finish this during the discussion phase of the process unless there is anything else the parties would like to add. Mr. Harrington restated that if the number of licenses that were allocated is the issue, reducing the resident licenses and adding a non-resident license, keeps the number of licenses allocated the same. The only difference is the ratio of resident to non-resident. The Committee could allocate differently next year and force him out. He has the license, but is not sure if it's going to be renewable or not. If Mr. Harrington doesn't do conservation time, he can't even apply for it. He's willing to put his conservation time in, but he still doesn't know if his conservation time is going to allow him the renewal.

Dean Doyle, Chair of the Shellfish Commission explained the misunderstanding around renewal: anyone can apply for a renewal. They need to submit their application during the month of May. If submitted after-the-fact, it puts the applicant into a different category. Anyone can apply. Selectman Young stated that on Page 7, Section 8 of the Ordinance dealing with the commercial renewal license category states "If the harvester held a commercial license the previous year and did not meet the required conservation time as defined in Section 5.I (Definitions) for a renewal license then he/she is not eligible to participate and receive a license in the new license category. The unissued renewal license may then be eliminated by vote of the Shellfish Commission and Selectmen by reducing the annual allocation request to the Department of Marine Resources. This is referred to as 'license reduction through attrition.'" Selection Young explained this change was made to allow the Town to reduce licenses through attrition which is fairer than taking it away from someone who already has one.

Mr. Harrington asked if they could understand where that applied to his situation since he is being told that his license is one-year only and if he doesn't do conservation time, it's definitely one year only. If Mr. Harrington does do conservation time, he still doesn't know.

The hearing went into the discussion phase.

Selectman Young went through the facts as he sees them in a sheet which he distributed.

1. A Town issued license gives an individual the right to harvest shellfish for a one year period to expire each year on June 30th. At that time the license becomes null and void and does not carry over into the next year no matter what the circumstance is. The eligibility of the individual for a license may carry over year after year if the required conservation time is completed but there must be an available license each year to be issued. If this was not true than a municipality would never be able to reduce license numbers unless someone failed to become eligible.

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Selectman Young further explained that at the end of the year, there is a clean slate.

The Shellfish Committee sits down; they send a letter through the Board to the State, and the State (DMR) decides what the allocation will be, based on the Town's request. At that time the Town starts the new licensing period and if there are licenses available the folks can get them. If it's cut back then folks won't get them.

2. Section 6.C.(4) (c) (8) of the Ordinance – Renewals (page 7) states that "In the event the number of qualifying applications exceeds the number of available licenses, licenses shall be awarded to seniority in terms of the number of years that the application has held a Phippsburg License..." So next year, Mr. Harrington will have a credit of one year. Mr. Harrington will have that going for him just like any other harvester who has a license for one year, so you are being treated the same.

3. Section 6.C.(4)(a) of the Ordinance (page 5) requires that the Selectmen, upon recommendation of the Shellfish Commission, send a letter to DMR in May of each year requesting approval of the number of licenses to be issued for the upcoming year as well as fees (this is also a State requirement). This year the number of Non-Resident Commercial Licenses were cut back from 4 to 3 through the "License Reduction through Attrition Program" (Section 6.C.(4) (c) (8) on page 7 of the Ordinance. The previous year we had used this program to cut back the Resident Commercial Licenses from 31 to 22 due to lack of resources.

4. Section 6.C.(7) Reduction of License Allocation on Page 10 of the Shellfish Ordinance states that if the reduction of licenses cannot be accomplished through the "Attrition Program" then the licenses may be cut back by seniority. Even if we have someone year after year get their renewal licenses and the Town is forced into a cutback they can do that. The licenses that get taken are based on the years back a person has held a license. It is evident to Selectman Young that the program is designed so that the Town can cut back licenses because there is no guarantee that a license will be renewed year after year. Each year is a separate situation.

In conclusion, Selectman Young stated that the Town issues licenses expiring on June 30th each year and licenses do not roll over to the harvester for the next year. There is no such term as "grandfathering." There is a new allocation every year, and no guarantee from one year to the next that a harvester will receive his/her renewal license. It will depend on whether there is a need to cut licenses back through attrition or seniority. Each year a license request is submitted to DMR for their approval, which would include documentation as to the need to reduce or increase licenses.

Mr. Harrington has the right to submit an application for a license for 2020-2021 along with everyone else. He will be credited with any conservation time he has and will be in competition with other Renewal Non-resident Commercial Harvesters in accordance with licensing Section 6.C.(4)(c) of the Shellfish Ordinance and the allocation submitted and approved by DMR in May of 2020. If the Shellfish Commission and the Selectmen forward their request and the DMR decide for four licenses, Mr. Harrington would be the fourth one. If they go back to the 3 that they requested this year, then if Mr. Harrington got his conservation time in and if one of the other non-resident harvesters does not

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purchase their license, Mr. Harrington would be next on the list to receive a license. It all is going to depend on how many licenses are requested and whether the other three harvesters put in for their licenses. There is no guarantee from year to year whether you can have a license for anybody; it's based on the numbers that are requested and approved.

Selectman House stated she felt there would have been more applications if people knew there were going to be four available.

Selectman Mixon clarified that these statements are from what Selectman Young extracted from the Ordinance, not the Ordinance itself.

Selectman Young's recommendation is that the Shellfish Commission's decision that Daniel Harrington may keep the Non-Resident Commercial Shellfish License issued to him in error, for one year only. Selectman Young feels that was done fairly; he supports that decision. Mr. Harrington is welcome to apply for a Non-Resident Commercial License for next year and will be considered with the other non-resident applicants, with his one year seniority and conservation time being taken into consideration.

Dean Doyle mentioned that there will be a re-seeding this Saturday at 8:00 a.m. if Mr. Harrington wishes to come; will meet at Town Hall with a rain date of 9 a.m. the next day on Sunday. This can be an opportunity for someone to earn 5 hours. There are also two more water sample dates.

Selectman Mixon requested that the Shellfish Committee notify Mr. Harrington of the meeting dates as to when the allocation will be discussed.

Anna asked if it is explained in the Ordinance how the determination of resident versus on-resident licenses is made. She understands that resident vs. non-resident is a ratio, but wanted to know how the number of resident licenses is arrived at. Selectman Mixon responded by stating the number of harvesters is determined each year by the Shellfish Committee by taking a look at the previous year.

Dean Doyle also responded by saying they go by the survey data and what they have available for resources to keep it sustainable. DMR requires every town with a Shellfish Program have to issue a minimum of 10% non-resident of the resident number.

Vote: Selectman Young motioned to uphold the decision made by the Shellfish Conservation Commission concerning Daniel Harrington's License. Part 1 being that he retains his license for this year that he was given in error, and 2) the license will expire at the end of the year and Mr. Harrington is welcome to resubmit. Conservation time and seniority will be taken into consideration for everyone, which was seconded by Selectman House and passed by a vote of 3-0.

4. Public Hearing - Adopt the MMA Model Ordinance for General Assistance Appendices (A-D) for the period of October 1, 2019 - September 30, 2020, in compliance with Title 22 M.R.S.A. 4305 (4).

Selectman Young stated that the overall maximum went up, as well as food and housing, with

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10/23/19

everything else remaining the same.

Vote: Selectman Young motioned to approve the GA maximums as recommended by the State, which was seconded by Selectman House and passed by a vote of 3-0.

5. Considering opening the Transfer Station on Fridays (8:00 a.m. to 4:00 p.m.) during the month of October.

This had been discussed previously. The understanding was that it was in the budget to be open on Friday's through October. They are still very busy on Wednesday and Saturday and the addition of Friday would help.

Vote: Selectman Young motioned to open the Transfer Station on Fridays from 8:00 a.m. to 4:00 p.m. during the month of October, which was seconded by Selectman House and passed by a vote of 3-0.

Administrator Jones will get posters out tomorrow announcing this as well as post it on the Town's Website.

II. Selectmen/Administrator Comments and Announcements:

Selectman House announced that next week is Fire Prevention Week. The Open House at the Fire Department is Tuesday Oct 8th from 6:00-8:00 p.m. Trick or Trunk will be the last Saturday in October, in the Town Hall Parking Lot; more information will be coming up.

Selectman Young stated that there was a great turn out at the Senior Citizens Fair. Student nurses from the college were there doing cholesterol checks, and a lot of other health checks, which was a great benefit to attendees. 130 flu shots were given.

There will be no Selectmen's Meeting on October 16th.

Selectman Mixon wanted to let everyone know that there is a clean-up going on down at the Acre Lot, at 10:00 a.m. on Saturday if anyone would like to come and help out. Mr. Mixon also stated that he was at the MMA Convention in Bangor earlier today and picked up the award for the Town Report.

Phippsburg received the Supreme Award for our population group. He also reminded that as of yesterday duck hunting began so you will probably start hearing shotguns. Turkey season is also open.

III. Public Forum:

Anna Varian stated that she believed that the Town budgeted funds for lights in the re-use trailer at the Transfer Station. She was on the team that got that trailer placed on the site and it was to have the overhang, which we do, and lights on the inside because on inclement weather days it's hard to see inside the trailer. She was pretty sure that shop lights were to be installed. She understands that there is an issue getting power from the actual power pole outside of the trailer door, but with solar technology it seems like there would be solar lighting available that could keep people shopping throughout the dark. Anything that is taken out of our hoppers and out of our way is a good thing. Selectman Mixon remembers speaking about it but doesn't remember having that conversation during the budget season. Selectman Mixon will do some research as there used to be a type of skylight that was a dome, magnified the light and made for just those purposes. Selectman Young will donate a solar light to see if it can get a charge and work down there.

Anna also asked about the trailer-length logs that were cut as FEMA wood around two years ago. They

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are sitting at the Transfer Station to the left of the raw wood area. Where it came off town land can people go and take that wood? She would like a determination on what to do with them versus letting them sit there and rot. The Board will give this some thought and will be put it on a future agenda.

IV. Review and/or Sign:

1. Payroll and Accounts Payable Warrants

Vote: Selectman Young motioned to sign the above warrants, which was seconded by Selectman House and passed by a vote of 3-0.

2. Selectmen's Meeting Minutes for August 28th and September 4th, 2019

Vote: Selectman Young motioned to sign the above minutes, which was seconded by Selectman House and passed by a vote of 3-0.

3. Municipal Quit Claim Deed for Corey H. Ater and Melissa A. Ater; formerly owned by Timothy E. Lewis and Snow Flake Holdings (Map 039 Lot 15), for tax lien years 2016, 2017 and 2019.

Vote: Selectman Young motioned to approve the Municipal Quit Claim Deed above, which was seconded by Selectman House and passed by a vote of 3-0.

4. Municipal Quit Claim Deed Todd Rich; (Map 003 Lot 047-06), for tax lien years 2013-2019.

Vote: Selectman Young motioned to approve the Municipal Quit Claim Deed above, which was seconded by Selectman House and passed by a vote of 3-0.

5. Warrant for Calling the Municipal Election for the RSU1 Board of Directors, Tuesday November 5, 2019.

Selectman Young asked who was running. Administrator Jones was not aware but will have more information available next week.

Vote: Selectman Young motioned to sign the above warrant, which was seconded by Selectman House and passed by a vote of 3-0.

Adjournment

Vote: At 7:19 p.m. Selectman Young motioned to adjourn which was seconded by Selectman House and passed by a vote of 3-0